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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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House Week in Review

With the deadline for sending House legislation to the Senate for further consideration drawing near last week, there was a flurry of activity last week in the House as representatives passed a large number of bills to meet that deadline. (Under Senate Rule 48, no statewide bill or resolution originating in the House, except for general and supplemental appropriation bills, may be considered by the Senate unless that legislation is received by the Senate prior to May 1, although this rule may be suspended by a two-thirds vote of the total Senate membership. Statewide bills or resolutions originating in the Senate must be received by the House prior to May 1, or else a two-thirds vote of representatives present and voting is required to consider Senate legislation reaching the House on or after that date.) Among the bills passed by the House last week were H. 3300, which requires information concerning sex offenders to be posted by sheriffs, accessible to the public at the sheriff's office; H. 3652, which prohibits expungement of one's criminal record for a criminal domestic violence conviction; H. 3777, which authorizes drug and alcohol testing for prospective state employees; and H. 3785, which regulates the practice of massage in this State. Also approved were H. 3201, which, among other things, forbids local governments from prohibiting smoking in non-governmental buildings, and H. 3838, a workers compensation measure allowing for rebuttal of presumption of disability because of a certain percentage loss of use of one's back. Restructuring of higher education (H. 3915), stalled in recent works, moved forward; with several members withdrawing their objections to this bill, the measure was removed from the contested calendar and placed back on the uncontested calendar, receiving second reading on Wednesday. This bill expands the size of the Commission on Higher Education and includes members of governing boards of public institutions of higher learning as ex-officio members of the commission.

Another issue arousing considerable debate and interest, however, did not fare so well last week. A bill to grant concealed weapons permits to the general public, H. 3730, stalled last week as several representatives placed objections to the measure, sending it well to the back of the contested calendar. Objections were also placed to H. 3827, which, among other things, changes the procedure for calculating premiums for auto insurance risks ceded to the Reinsurance Facility and makes it optional for insurers to write collision and comprehensive coverage for automobiles. Supporters of a state lottery also made an effort Wednesday to recall a lottery proposal, H. 3772, from the Judiciary Committee. An attempt to table that motion was rejected by a vote of 47 to 51, but the House shortly later adjourned without actually recalling the lottery proposal from committee.

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With House members last week passing a number of bills to meet the Senate bill introduction deadline, the Senate was readying itself to begin debate on H. 3362, the House-passed general appropriation bill for Fiscal Year 1995-1996. The Senate began debate on this bill on Monday afternoon, May 1, with debate on the bill expected to last into Friday, May 5. Differences in the House and Senate versions will be worked out in conference committee later this month. As the Senate began debate on the bill, Senate Finance Chairman John Drummond informed senators of several potential issues expected to take up much of the Senate's time and which, if passed according to the Senate's liking, could lead to considerable discussion in conference committee with the House, those issues being the Barnwell extension (i.e., keeping the site open to low-level radioactive waste for another 10 years), the appropriation of money to the Citadel to set up an alternative program for women (to meet a recent federal court order that the institution either admit women or set up an alternative program for them), and additional video poker licensing fees. The Senate also is expected to take up property tax relief during the current budget debate; the recently-approved House version of property tax relief differs significantly from relief proposed by the Senate Finance Committee, although some senators may try this week to conform the Senate version of property tax relief with the House version.

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Bills Introduced

The following bills were introduced in the House last week. Not all bills introduced are featured here. The bill summaries are arranged according to the standing committee to which the legislation was referred.

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

Definition of Processor (S. 597, Sen. G. Smith). This bill changes the definition of "processor," as pertains to hybrid striped bass, so as to mean a person engaging in cutting, dressing, mutilating, filleting, freezing or packaging of products when prepared and sold directly to the ultimate consumer. Currently, a processor is a person who engages in cutting, etc. products other than those prepared at establishments for serving as food for consumption on the premises.

Gathering of Oysters and Clams (S. 614, Sen. McConnell). Current law requires the Department of Natural Resources to maintain areas where State residents may (for personal use) gather not more than 2 U.S. bushels of oysters in a day, with these areas to be designated upon approval of a majority of the county legislative delegation. This bill would change these provisions, deleting the requirement for approval by the legislative delegation for these areas, and providing that the Department may designate and must maintain areas where persons holding or exempted from holding a marine recreation fishing stamp may (again, for personal use) not only gather on a daily basis 2 bushels of oysters but also one-half bushel of clams. No area containing a structure permitted by the Department of Health and Environmental Control (DHEC) in "critical areas" (i.e., coastal waters, tidelands, beaches or beach/dune systems) may be designated as an area for gathering these oysters and clams. Nor may DHEC issue a permit for utilization of a critical area designated as a public shellfish ground. The bill also provides that persons gathering shellfish in or on designated public shellfish grounds for commercial purposes, or gathering in excess of the statutory limit must, upon conviction, be punished as currently provided by law for violation of South Carolina's coastal fisheries laws (with, for example, a first offense punishable by fine of between \$25 and \$200 or imprisonment of between 10 and 30 days).

Cultured Game Fish (S. 688, Sen. G. Smith). Current law allows anyone to sell, offer for sale, barter and transport game fish for stocking and restocking purposes upon obtainment of a game fish breeder's license. This bill changes those provisions to provide that a person holding a valid game

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fish breeder's license may sell, offer for sale (but not barter) and transport cultured game fish for stocking and restocking purposes. The application fee for this license is \$25, with the license valid for the fiscal year in which it was issued. Any cultured game fish, with the exception of the Florida largemouth bass (*Micropterus salmoides floridanus*), 4 inches or larger may be sold, offered for sale, and transported for stocking or restocking purposes. For purposes of these provisions, "cultured game fish" are those game fish which have been propagated by an individual holding a fish breeder's license in environmental conditions consistent with normal fish husbandry practices. A person convicted for violating these provisions is ineligible for this license for 3 years from the date of conviction.

Restriction of Use of Personal Watercraft on Lake Hartwell (S. 766, Sen. Waldrep). This bill imposes a number of restrictions on the operation of personal watercraft and specialty propcraft on the waters of Lake Hartwell. For purposes of these restrictions, a "personal watercraft" is a boat less than 16 feet long which: (1) has an outboard motor or an inboard motor that uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion; (2) is designed with the concept that the operator and passenger ride on the outside surfaces, as opposed to the inside, of the vessel; and (3) has the probability that the operator and passenger during the normal course of use could fall overboard. Furthermore, a "personal watercraft" includes, without limitation, a vessel where the operator and passenger ride on the outside surfaces of the vessel, even if the primary source of motive propulsion is a propeller, and a vessel commonly known as a "jet ski." A "specialty propcraft" is a vessel similar in appearance and operation to a personal watercraft but which instead is powered by an outboard or propeller-drive motor.

Among the nearly one dozen restrictions this bill imposes on the operation of personal watercraft and specialty propcraft on Lake Hartwell are the following:

(1) Persons aboard these vessels must wear U.S. Coast Guard approved personal flotation devices;

(2) These vessels must be equipped with self-circling devices or lanyard-type engine cutoff switches;

(3) No vessel may operate faster than 5 mph within 100 feet of a moored or anchored vessel, wharf, dock, or pier or of a person in the water;

(4) No vessel may be operated in a manner that unreasonably or unnecessarily endangers life, limb or property (such as weaving through congested vessel traffic or jumping the wake of another vessel unreasonably or unnecessarily close to the other vessel).

(5) No vessel may be operated so as to leave the water completely while crossing the wake of another vessel within 50 feet of the vessel creating the wake.

The bill also prohibits, with limited exceptions, a person under 16 from operating these vessels, although a person older than 12 but under 16 may operate these vessels if he completes a personal watercraft safety

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program or is under the direct supervision or accompanied by an adult age 18 or older who is not under the influence of alcohol and/or drugs.

The bill also prohibits anyone owning, leasing, or having charge/control over any vessel from authorizing or knowingly permit these vessels to be operated in violation of these provisions.

Anyone failing to abide by these restrictions and requirements is guilty of a misdemeanor, punishable upon conviction by a fine of not more than \$200 or imprisonment not exceeding 30 days. These restrictions and requirements, however, do not apply to operation of these vessels by law enforcement, civil defense, emergency medical personnel, etc.; nor do these restrictions apply to activity on private waters or to performers engaged in professional exhibitions or participating in official-sanctioned regatta, race, marine parade, etc. in an area and time designated for that purpose.

EDUCATION AND PUBLIC WORKS

South Carolina Need-Based Grant Program (S. 696, Senate Education Committee). This bill establishes the South Carolina Need-Based Grant Program, through which undergraduate students of institutions of higher learning in South Carolina may receive state grants for tuition and fees at those institutions.

Under these provisions, a person seeking to obtain a need-based grant must meet several requirements. An applicant must be a permanent resident of this state and must also have lived in South Carolina at least 2 years immediately prior to enrollment; must have graduated in the upper half of his high school class or rank in the upper half of his class at his institution of higher learning; must be a full time student at a higher institution in this State; must be of "good moral character" and without any felony convictions; and must be found to be in financial need according to federal Title 4 regulations. In order to remain eligible for continued grants, the student, once enrolled, must make steady academic progress toward his degree; rank in the upper half of his class; have no criminal record; and be eligible for these grants for a maximum of 4 academic years of either 2 semesters or 3 quarters.

A student enrolled in a public institution may not receive a grant which exceeds the tuition and fees charged by that institution, while the grant awarded to a student attending an approved independent institution cannot exceed the average tuition and fees of all public 4-year colleges or universities in South Carolina. Adjustments in the grant size must be made if the student receives grants or scholarships from other sources.

It is the General Assembly's responsibility to appropriate, on an annual basis, funds to the Commission on Higher Education to meet these tuition and fee payments of this grants program. If funding is insufficient,

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then tuition and fees payments must be proportionately reduced or eliminated, with need as the primary consideration.

For purposes of this grant program, an "eligible independent institution" of higher learning is an independent eleemosynary junior or senior college in this State whose major campus and headquarters are located here and which is accredited by the Southern Association of Colleges and Secondary Schools. However, institutions whose sole purpose is religious or theological training or which are for-profit proprietary institutions are ineligible to participate in this program. Funds allocated to independent institutions must be proportionate to the full-time equivalent enrollment of students in approved and public institutions and cannot exceed 25 percent of the total amount of the program. The bill also prohibits anyone from obtaining or expending these grant funds for any other purpose other than for tuition and fees at the institution the student is authorized to attend under this program. If adopted, this bill would first apply to students entering as freshmen at institutions during the 1995-1996 academic year.

JUDICIARY

Grounds for Divorce (S. 72, Sen. McConnell). Currently under South Carolina law divorce may be granted, among other circumstances, when a husband and wife have lived separate and apart without cohabitation for one year. This bill provides that for purpose of grounds for divorce, this year-long separation may be either voluntary or involuntary.

Grounds for Divorce (S. 73, Sen. McConnell). The South Carolina Constitution lists several conditions under which divorce is allowed, one of which is continuous separation for at least one year. This joint resolutions proposes to amend the Constitution to provide that the one-year period of continuous separation may be a voluntary or involuntary separation. If adopted by the General Assembly (requires 83 votes in the House and 31 votes in the Senate), this proposed constitutional amendment would be submitted to the voters at the November 1996 general election.

Expanded Conditions Under Which Bail May Be Denied (S. 82, Sen. McConnell). Article 1, Section 15 of the South Carolina Constitution allows bail to be denied to persons charged with capital offenses or offenses punishable by life imprisonment. This proposed constitutional amendment would expand the conditions under which bail may be denied, such that bail may be denied if the offense:

(1) was committed when the person charged already is admitted to bail on a separate capital offense charge, separate offense punishable by life imprisonment, or separate violent offense charge;

(2) is a violent offense, the person poses a substantial danger to another person or the community, and if no conditions of release which could be imposed would reasonably assure the safety of the other person or community; or

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(3) was committed when the person charged has been convicted of a separate capital offense charge, separate offense punishable by life imprisonment, or separate violent offense charge, unless the convicted person has completed his probationary or parole period or all terms of his sentence.

For purposes of this joint resolution, a "violent offense" must be defined by the General Assembly (see S. 92, the implementing legislation for this proposed constitutional amendment, defining "violent offense.")

If this joint resolution is adopted by the General Assembly (requires two-thirds affirmative vote of each chamber), then this will be submitted as a proposed constitutional amendment to the voters in the November 1996 general election.

Offense of Armed Robbery Includes Alleging That One Is Armed While Using Representation of Deadly Weapon (S. 90, Sen. Wilson). Current South Carolina proscribes both armed robbery and attempted armed robbery, with a person convicted of the former subject to maximum imprisonment of 30 years and a conviction for attempting this offense resulting in a maximum sentence of 20 years. This bill would expand the scope of both these offenses to include cases in which the perpetrator alleges (either by action or words) he is armed while using a representation of a deadly weapon or any object which a person present when the crime is committed may reasonably believe to be a deadly weapon.

Denial of Bail (S. 92, Sen. McConnell). Currently under South Carolina law, a person charged with a noncapital offense must, upon appearance before the court, be released (except in limited circumstances) pending trial on his own recognizance, without surety in an amount specified by the court. This bill allows the court, given due weight to the evidence to the evidence and nature/circumstances of the event, to deny bail to a person if he:

(1) was already released on bail for a separate capital offense, separate offense punishable by life imprisonment, or separate violent offense charge when this offense was committed;

(2) is charged with a violent offense and poses a substantial danger to another person or to the community, and no conditions of release may be imposed which reasonably would assure the other person's or community's safety; or

(3) has been convicted of a separate capital offense, a separate offense punishable by life imprisonment, or a separate violent offense, unless he has completed the probationary or parole period or all terms of his sentence.

For purposes of these provisions, "violent offense" includes a number of violent crimes (such as murder, criminal sexual conduct, first degree burglary, kidnapping, etc.).

The bill also directs the Prosecution Coordination Commission to study the feasibility of creating a system to effectively manage criminal case loads and obtain electronic information from various state departments and local jurisdictions to support preparation and ongoing management of

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criminal case loads. The commission also must examine the feasibility of a court case management system and ongoing administration of cases. A report based on the study must include at a minimum recommendations to reduce costs related to criminal case management and to more efficiently disseminate and coordinate information among appropriate agencies. The report must be presented to the chairmen of the House Ways and Means and Senate Finance Committees by January 31, 1996, at which time the study ends.

Candidates' Names in Certain Elections To Be in Alphabetical Order (S. 189, Sen. Rose). This bill requires names of candidates in non-partisan and at-large, multi-seat races in general and special elections to be alphabetical order, with candidates's names also required to be in alphabetical order when listed on party primary ballots.

Return of Videotapes (S. 210, Sen. Land). Under current South Carolina law, a person is guilty of larceny if he fails to return a video or cassette tape within 72 hours after the lease or rental agreement has expired or uses that item for any purpose not authorized pursuant to the lease or agreement, with the penalty upon conviction varying according to the value of the lease or rental agreement. This bill allows a court to dismiss any prosecution initiated pursuant to this law for a first offense, upon satisfactory proof of restitution and payment by the defendant of all administrative costs accruing (not to exceed \$50), if submitted before the date set for trial after issuance of the warrant. The bill also prohibits a warrant issued for violation of this law from being obtained later than 30 days after the date the rental agreement has expired.

Person Who Commits or Threatens To Commit Domestic Violence Must Be Arrested (S. 219, Sen. G. Smith). This bill would make it mandatory, instead of optional, for a law enforcement officer to arrest a person whom the officer has probable cause to believe has committed or is committing the misdemeanor offense of criminal domestic violence or violating their terms and conditions of an order for protection issued under the Protection from Domestic Abuse Act. The bill also requires the officer to arrest a person if the former has probable cause to believe the person has committed or is committing the offense of criminal domestic violence of a high and aggravated nature.

Also under these provisions, if the officer receives complaints of domestic or family violence (hereafter called "violence") from at least 2 household members involving an incident of such violence, then the officer must evaluate each complaint separately to determine who was the primary aggressor. Upon determining that one person was the primary physical aggressor, the officer need not arrest the other person believed to have committed the violence. In determining whether a person is the primary aggressor, the officer must consider prior complaints of such violence; the relative severity of injuries inflicted on each person; the likelihood of future injury to each person; and whether one of the persons acted in self-defense. The officer may not threaten, suggest or otherwise indicate the possible arrest of all parties to discourage requests for intervention by

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law enforcement by any party; furthermore, an officer arresting more than 1 person for a crime involving this violence must include the grounds for arresting both parties in his written incident report.

Attorney No Longer Required To File Certificate Indicating Requirements for Incorporation Have Been Met (S. 224, Sen. Rose). This bill deletes a provision which, for purposes of incorporation, requires a licensed attorney to sign a certificate pledging that all requirements for incorporation have been met.

Review of Parole (S. 230, Sen. Richter). Currently in South Carolina, if a non-violent offender is initially denied parole, then his case (i.e., for purposes of determination of parole) must be reviewed every 12 months thereafter, while for violent offenders initially denied parole, their cases must be reviewed every 24 months thereafter. This bill would change parole review periods once an offender has been denied parole a second time, so that once an offender has been denied parole that number of times, his case subsequently must be reviewed as follows:

(1) If a non-violent offender: Case must subsequently be reviewed on dates between 12 and 36 months after the previous negative determination;

(2) If a violent offender: Case must subsequently be reviewed on dates between 24 and 48 months after the previous negative determination.

The Board of Probation, Parole and Pardons must determine the dates, within the ranges as listed above, at which an offender's case for parole is to be reviewed.

Restructuring "Clean-Up" Provisions (S. 264, Sen. Stilwell). This bill mostly makes a number of technical changes to conform current statutes with the General Assembly's 1993 restructuring act. However, the bill also contains a few substantive changes. As examples, the bill requires the director of the Department of Revenue either to be an attorney experienced in tax matters or a certified public accountant; revises the membership of the current Advisory Commission for the Division on Aging to include membership of the current Council on Elder Affairs.; and provides that the \$5 added fine for driving more than 15 mph above the speed limit would be deposited into a "Law Enforcement Enhancement Account" rather than into the general fund (with these funds used for additional troopers and officers, paying shift differentials for troopers and officers, and for their continuing education and training).

Child Support Guidelines (S. 266, Sen. McConnell). This bill provides that in proceedings for award of child support, there is a rebuttable presumption that the amount of the award required by child support guidelines is the correct amount to be awarded, with findings rebutting the guidelines required to state the amount of support that would have been required under the guidelines and justification for why the order varies from the guidelines. Furthermore, application of the guidelines to an existing child support order is considered a change of circumstances for modification of the order only in Title 4-D cases. The bill also lists factors the court must consider as possible reasons for deviation from the

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guidelines or for finding a change of circumstances requiring modification of existing orders, with examples of these factors being educational expenses for the children or the spouse; families with more than 6 children; child-related unreimbursed extraordinary medical expenses, and alimony, among other factors.

Partial Refund of Alcoholic Liquor License Fees (S. 397, Sen. Ryberg).

Current law provides for a partial refund of a biennial beer, wine or alcoholic liquor license or permit fee if, during the first year of the biennial license or permit, the licensee or permittee closes the business because of loss of lease, fire or other natural disaster, or death. This bill would require such a refund if the business is closed for any reason during the first year, except that the refund may not be granted if the license or permit has been canceled, relinquished or revoked as a result of an enforcement action or failure to adhere to conditions of the license or permit. This new refund requirement would apply to biennial licenses or permits issued on or after July 1, 1992.

The bill also deletes a provision under which a person granted an alcoholic beverage license during the first 6 months of the year must pay 7/8 (seven-eighths) of the manufacturer's, wholesaler's or retail dealer's license fees and requires persons applying (whether or not initially) for an alcoholic beverage license to pay license fees based on a quarterly system (i.e., entire fee if obtained during first quarter of the license period, three-fourths of prescribed fee if obtained during second quarter of license period, etc.)

Compacts and Agreements For Deployment of National Guard With Governors of Other States for Certain Activities (S. 429, Sen. Lander). This bill, introduced as the companion bill to H. 3758 (passed by the House about 3 weeks ago, on Thursday, April 13), allows the governor, with congressional consent, to enter into compacts and agreements for deployment of the National Guard with governors of other states for purposes of drug interdiction, counterdrug activities and drug demand reduction activities.

Increased Penalties for Failure To Stop for Law Enforcement Vehicle (S. 438, Sen. Alexander). Current South Carolina law makes it a misdemeanor for a driver to fail to stop his vehicle when signalled by a law enforcement vehicle, a misdemeanor punishable upon conviction by a fine of at least \$500 or imprisonment of between 90 days and 3 years, and the person's driver's license subject to suspension for up to 1 year. This bill would revise the penalties for this offense, making this offense a felony in certain instances, with steeper penalties for (a) subsequent violations, and (b) causing great bodily injury or death in the process.

Under these provisions, if a driver fails to stop for a law enforcement vehicle, and great bodily injury or death does not result from this violation, the person must be punished as follows:

(1) First Offense: Misdemeanor, with punishment same as provided for all violations of the current statute---fine of at least \$500, or

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imprisonment of between 90 days and 3 years, with driver's license subject to suspension for up to 1 year;

(2) Second or Subsequent Offense: Felony punishable by imprisonment not exceeding 5 years; additionally, the person's driver's license must be suspended for 1 year from the date of his conviction.

A driver who fails to stop for a law enforcement vehicle and, while driving, performs an unlawful act or neglects a duty imposed by law in driving the vehicle must be punished as follows:

(1) If Great Bodily Injury Results: Felony punishable by imprisonment not exceeding 10 years;

(2) If Death Results: Felony punishable by imprisonment not exceeding 25 years.

Additionally, the license of the driver convicted of causing great bodily injury or death while failing to stop for the law enforcement vehicle must be suspended for a period to include any term of imprisonment, suspended sentence, parole or probation, plus 3 years.

A driver convicted for the misdemeanor of failing to stop for a law enforcement vehicle (i.e., only first time violation, no second or subsequent violation, or no great bodily injury/death resulting from violation) may, after 3 years from date of completion of terms and conditions of his sentence for the first offense, apply to the court for an order expunging records of his arrest and conviction. If the person has had no other conviction during the 3-year period following completion of terms and conditions of the sentence, then the court must expunge his records. Following expungement, the State Law Enforcement Division must keep a nonpublic record of the offense and the date of its expungement to ensure no person takes advantage of this expungement opportunity more than once. This nonpublic record is not subject to release under the Freedom of Information Act or other provisions of law, except for those authorized law or court officials who need this information to prevent this expungement opportunity from being taken more than once.

Addition of Ex Officio Members on Commissions of Public Works in Cities with over 30,000 but under 50,000 Residents (S. 441, Sen. Richter). This bill provides a means by which ex-officio members may be added to commission of public works in certain-sized cities. Under these provisions, in a city with population of over 30,000 but under 50,000 (according to the latest U.S. Census), the mayor and chairman of the committee on water supply would serve as ex-officio commissioners of public works if requested by a resolution approved by at least 75 percent of the commissioners of public works and authorized by ordinance approved by at least 75 percent of the municipal council. Furthermore, the board of commissioners of public works in a city of this size range must fill any commission vacancy for an unexpired term by appointment, with the appointment made by the remaining commissioners except in cases of an ex-officio member of that commission. (NOTE: A bill identical to S. 441 [H. 3928] was introduced in the House on April 5 and is pending in the House Education and Public Works Committee.)

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Fee for Filing Judgment By Confession with Clerk of Court (S. 468, Sen. Hayes). This bill sets a \$5 fee for filing and enrolling a judgment by confession with clerks of courts.

Reduction in Size of Procurement Panel (S. 617, Sen. McConnell). This bill reduces the size of the South Carolina Procurement Review Panel from 8 to 7 members by reducing from 2 to 1 the number of state employees on the panel. With the panel reduced to 7 members, the bill also reduces from 5 to 4 the number of members necessary to constitute a quorum.

Voter Registration for Persons Recently Discharged from Armed Forces (S. 641, Sen. Williams). Under current South Carolina law, voter registration books must be closed 30 days before each election, with the books reopening only after the election has been held (meaning, for example, that to vote in the statewide general election one must register at least 30 days prior to that election). This bill allows persons discharged or separated from service overseas in the Armed Forces and who are eligible to register to vote but return home too late to register at the time registration is required to register for the purpose of voting in the next ensuing election after discharge/separation from service up to 5 pm on the day of the election. A person wishing to register under these provisions must do so at the voter registration office in the county where he desires to register.

LABOR, COMMERCE AND INDUSTRY

State Athletic Commission May Exempt Certain Schools, Etc. from Its Regulations (S. 679, Sen. Passailaigue). Current law provides that the State Athletic Commission has control and supervision over all boxing, wrestling and sparring events, contests and performances.. This bill provides that the Commission has control and supervision over all combative sports in this state, including but not limited to boxing, wrestling and sparring events, etc. The bill defines "combative sports" as contests in which the participants are disposed to fight before an audience on a platform, pad or in areas surrounded by ropes or other markings, and defines (for purposes of commission regulations) "weapon" as anything (with limited exceptions) not part of the human body used to strike a person either through direct contact or expulsion of a projectile.

Also under these provisions, schools or organizations that fall under auspices of the U.S. Olympic Committee, USA Boxing, or the South Carolina Association and which offer instruction in combative sports are exempt from supervision by the Commission.

Finally, the bill prohibits in South Carolina contests involving more than 1 of the combative sports, or combative sports in which weapons are used, with violation of this prohibition punishable upon conviction by a fine not exceeding \$1,000 and/or imprisonment not exceeding 2 years.

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MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

State Board of Dentistry May Require Mental or Physical Examinations and Access to Records under Certain Circumstances (S. 598, Sen. Bryan). Current South Carolina law lists a number of types of misconduct (such as felony conviction, failure to maintain sanitary conditions, etc.) which constitute grounds for discipline (i.e., revocation, suspension, probation, etc. of a professional license) against a dentist, dental hygienist or dental technician. This bill would add another type of misconduct for purposes of disciplinary action, so as to include any dentist, etc. who has dispensed, prescribed, administered or obtained drugs for any use or in any regimen other than one appropriated for the practice of dentistry.

The bill also provides that in investigating misconduct based on the dentist's, etc. inability to practice his profession at all or in a safe manner because of physical or mental illness or substance abuse, the State Board of Dentistry may [1] require a licensee, registrant or applicant to submit to a mental or physical examination by physicians designated by the Board, and [2] obtain records relating to the mental or physical condition of a licensee, registrant or applicant. Results of the examination, and the records, are admissible in a hearing before the board. If a licensee, registrant or applicant fails to submit to the examination or consent to release of his records (except in circumstances beyond the person's control), then the Board must automatically suspend or deny licensure or registration pending compliance and further order of the Board. Any licensee registrant or applicant prohibited from practicing dentistry or dental hygiene or dental technological work under these provisions must be given an opportunity at reasonable intervals to demonstrate to the Board the ability to resume or begin practice in those respective areas with reasonable skill and safety to patients.

Board of South Carolina Protection and Advocacy System for the Handicapped May Change Its Corporate Name in Certain Manner (S. 599, Sen. Thomas). This bill allows the board of the South Carolina Protection and Advocacy System for the Handicapped to change its corporate name in the same manner as any other nonprofit corporation. Furthermore, if the board does change its name, then the powers and duties of the system are considered the powers and duties of the successor nonprofit corporation.

Recovery from an Estate for Medical Assistance Paid under Medicaid (S. 609, Sen. Leatherman). Current South Carolina law requires the State Health and Human Services Finance Commission to seek recovery of medical assistance paid under State Medicaid from estates of certain individuals, including but not limited to a person age 55 or older when the individual received medical assistance consisting of any item or service provided under the state plan. This bill changes these recovery provisions to require recovery of medical

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assistance provided to persons age 55 or older when this assistance consisted of nursing facility services, home and community-based services, and hospital and prescription drug services provided to individuals in nursing facilities or receiving home and community-based services.

The bill also provides that notwithstanding the provisions of the above paragraph (i.e., recovery of medical assistance consisting of nursing facility services, home and community-based services, etc.), if federal law is amended to grant states the option of exempting home and community-based services or other noninstitutional Medicaid services from federal estate recovery provisions, then the State Health and Human Finance Commission must seek recovery of medical assistance paid under State Medicaid from the estate of an individual who:

(1) at the time of his death was an inpatient in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution, if the individual is required, as a condition of receiving services in the facility under the state plan, to spend for costs of medical care all but a minimal portion of the person's income required for personal needs, or

(2) was 55 or older when he received medical assistance consisting of nursing facility services.

If these provisions are adopted, they would apply retroactively to July 1, 1994.

Contracts of Health and Human Services Finance Commission (S. 669, Sen. V. Smith). Current law requires the State Health and Human Services Finance Commission, in administering Medicaid and the Social Services Block Grant Program, to contract with health and human services agencies for eligibility determination with performance standards regarding quality control. This bill would expand with whom the commission may contract for eligibility determinations by allowing it (the commission) to contract for health and human services eligibility determination.

Duties of Data Oversight Council (S. 691, Sen. Giese). This bill sets the duties of the health care Data Oversight Council, which include, among others, making recommendations to the Joint Legislative Health Care Planning and Oversight Committee and the General Assembly concerning collection and release of health care-related data by the State for purposes of formation of health care policy; approval of all regulations for collection and release of health care data to be promulgated by the Office of Research and Statistics of the Budget and Control Board; and recommending to the Office appropriate dissemination of health care-related data reports, training of personnel and use of such data. The bill also requires the Office, with council approval, to promulgate regulations pertaining to collection of inpatient and outpatient information.

Procedures regarding release of health care data by the Office is revised, so that before releasing provider identifiable data, the Office must determine that data to be released is for purposes consistent with

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regulations promulgated by the Office, with the release required to be approved by the council and the committee. However, committee approval of the release is not required if the data elements and format in the release are substantially similar to releases or standardized reports previously approved by the committee.

The bill also deletes provisions requiring hospitals to report specific information (such as total gross revenue, costs of medical education, etc.) to the Office and instead requires hospital-based on freestanding ambulatory surgical facilities, hospital emergency rooms and health care settings providing on an outpatient basis radiation therapy and similar services to provide outpatient information to the Office as set forth in the regulation. Other providers offering services with equipment requiring a Certificate of Need must provide outpatient information to the Office, and licensed home health agencies also must provide outpatient information to the Office as set forth in regulation.

The bill allows the Office to assess a civil fine of up to \$5,000 for each violation, with the total fine not exceeding \$10,000, on a provider who fails to submit health care data as required by these or other provisions and regulations promulgated pursuant to them. Anyone seeking to collect health care data or information for a registry must coordinate with the Office to utilize existing data collection formats as provided for by the Office and consistent with regulations promulgated by the Office. Also, with limited exceptions, no hospital, health care facility or health care professional required under these provisions to submit health care data is required to submit data to a registry which has not complied with these provisions.

WITHOUT REFERENCE

Conformance of South Carolina's Method of Imposing an Excise Tax on Motor Fuel to Federal Law (H. 4146, Ways and Means Committee). This bill would conform South Carolina's method of imposing an excise tax on motor fuel with federal law, with the goal of establishing an efficient and effective motor fuel tax collection and enforcement system sufficient to substantially deter motor fuel tax evasion emanating from sources within and outside South Carolina. According to the bill's fiscal impact statement, these provisions would increase gasoline and special fuel tax collections by nearly \$11 million in the next fiscal year, with the state also expected to achieve a 10-20 percent increase in taxable fuel reporting because of increased compliance. If adopted, most of the provisions of this bill would be effective July 1, 1995.

Property Tax Exemptions (H. 4158, Ways and Means Committee). This bill revises a number of provisions pertaining to application for property tax exemptions. Among other things, the bill provides that applications for property exemptions are not required for properties owned by the U.S.

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Government and various other entities/items (such as state and local government, inventories of manufacturers, etc.) and extends the time for applying for a property exemption to include the time provided for claims for refund. The bill also extends the property exemption for 2 personal motor vehicles of persons required to use wheelchairs to instances when the persons qualify for special license plates identifying them as disabled.

Distribution of Profits from Bingo (H. 4159, Ways and Means Committee). This bill provides that profits derived from the game of Bingo within South Carolina cannot be expended for the benefit of charitable organizations located outside this State.

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